

State of Illinois 91st General Assembly Final Senate Journal

SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIRST GENERAL ASSEMBLY

102ND LEGISLATIVE DAY

FRIDAY, APRIL 14, 2000

10:25 O'CLOCK A.M.

No. 102

[Apr. 14, 2000]

2

The Senate met pursuant to adjournment.
Honorable James "Pate" Philip, Wood Dale, Illinois, presiding.
Prayer by Senator Adeline J. Geo-Karis, Zion, Illinois.
Senator Radogno led the Senate in the Pledge of Allegiance.

The Journal of Wednesday, April 12, 2000, was being read when on motion of Senator W. Jones further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

Senator W. Jones moved that reading and approval of the Journal of Thursday, April 13, 2000 be postponed pending arrival of the printed Journal.

The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

A report on the modification to the Two Year Plan for SDA 4 which incorporates several line item budget adjustments for the period of 4-1-99 through 9-30-00 under Youth Titles IIC and IIB submitted by the Job Training Partnership Act, Service Delivery Area 4, as required by Section 105 (a)(1)(B)(I) of the Job Training Partnership Act.

The 1999 Annual Report on Insurance Cost Containment submitted by the Department of Insurance in compliance with Article XLIII of the Illinois Insurance Code.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendments 1 & 2 to Senate Bill 1627

Senator Karpiel asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 10:28 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 11:50 o'clock a.m., the Senate resumed consideration of business.

Senator Geo-Karis, presiding.

LEGISLATIVE MEASURES FILED

[Apr. 14, 2000]

The following floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 4 to House Bill 3876

Senate Amendment No. 2 to House Bill 3939

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS
ON SECRETARY'S DESK

On motion of Senator Dillard, **Senate Bill No. 1231**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Dillard moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 59; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpier
Klemm
Lauzen
Lightford
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker

[Apr. 14, 2000]

Peterson
 Petka
 Radogno
 Rauschenberger
 Ronen
 Roskam
 Shadid
 Shaw
 Sieben
 Silverstein
 Smith
 Sullivan
 Syverson
 Trotter
 Viverito
 Walsh, L.
 Walsh, T.
 Watson
 Weaver
 Welch
 Mr. President

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1231**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Lauzen, **Senate Bill No. 1298**, with House Amendment No. 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Lauzen moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 59; Nays None.

The following voted in the affirmative:

Bomke
 Bowles
 Burzynski
 Clayborne
 Cronin
 Cullerton
 DeLeo
 del Valle
 Demuzio
 Dillard
 Donahue
 Dudycz
 Geo-Karis
 Halvorson
 Hawkinson

Hendon
Jacobs
Jones, E.
Jones, W.
Karpiel
Klemm

[Apr. 14, 2000]

5

Lauzen
Lightford
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 2 to **Senate Bill No. 1298**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Trotter, **Senate Bill No. 1693**, with House Amendments numbered 2 and 4 on the Secretary's Desk, was taken up for immediate consideration.

Senator Trotter moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 59; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne

[Apr. 14, 2000]

Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpel
Klemm
Lauzen
Lightford
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka

Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 2 and 4 to **Senate Bill No. 1693**.

Ordered that the Secretary inform the House of Representatives

[Apr. 14, 2000]

7

thereof.

On motion of Senator Dillard, **Senate Bill No. 1444**, with House Amendments numbered 4 and 5 on the Secretary's Desk, was taken up for immediate consideration.

Senator Dillard moved that the Senate non-concur with the House in the adoption of their amendments to said bill.

The motion prevailed.

And the Senate non-concurred with the House in the adoption of their Amendments numbered 4 and 5 to **Senate Bill No. 1444**.

Ordered that the Secretary inform the House of Representatives thereof.

CONSIDERATION OF SENATE AMENDMENTS TO HOUSE BILL ON SECRETARY'S DESK

On motion of Senator Rauschenberger, **House Bill No. 390**, with Senate Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Rauschenberger moved that the Senate refuse to recede from its Amendments numbered 1 and 2 to House Bill No. 390 and that a First Committee of Conference consisting of five members on the part of the Senate and five members on the part of the House be appointed to adjust the differences between the two Houses in regard to said amendments.

The motion prevailed.

The President appointed as such Committee on the part of the Senate, the following: Senators Dillard, Dudycz, Rauschenberger, Shaw and L. Walsh.

Ordered that the Secretary inform the House of Representatives thereof.

REPORTS FROM RULES COMMITTEE

Senator Weaver, Chairperson of the Committee on Rules, reported that the Committee recommends that **House Joint Resolutions numbered 61 and 63** having been assigned to the Committee on Executive be re-referred from the Committee on Executive to the Committee on Rules and have been approved for consideration by the Rules Committee and referred to the Senate floor for consideration.

Under the rules, the resolutions were placed on the order of Secretary's Desk Resolutions.

Senator Weaver, Chairperson of the Committee on Rules, during its April 14, 2000 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Amendment No. 4 to House Bill 3876; Senate Amendment No. 2 to House Bill 3939.**

Senator Weaver, Chairperson of the Committee on Rules, during its April 14, 2000 meeting, reported the following Joint Action Motion has been assigned to the indicated Standing Committee of the Senate:

Revenue: **Motion to concur with House Amendments numbered 1 and 2 to Senate Bill 1627.**

[Apr. 14, 2000]

COMMITTEE MEETING ANNOUNCEMENTS

Senator Klemm, Chairperson of the Committee on Executive announced that the Executive Committee will meet today in Room 212, Capitol Building, at 1:15 o'clock p.m.

Senator Peterson, Chairperson of the Committee on Revenue announced that the Revenue Committee will meet today in Room 400, Capitol Building, at 1:15 o'clock p.m.

READING A BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Dudycz, **House Bill No. 3114** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in

the affirmative by the following vote: Yeas 31; Nays 21; Present 2.

The following voted in the affirmative:

Burzynski
Clayborne
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Dudycz
Geo-Karis
Jacobs
Jones, E.
Klemm
Lightford
Mitchell
Molaro
Munoz
Myers
Obama
Peterson
Shaw
Sieben
Silverstein
Smith
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

The following voted in the negative:

Bomke
Bowles
Cronin
Halvorson

[Apr. 14, 2000]

Hawkinson
Jones, W.
Lauzen
Link
Luechtefeld
Madigan, L.
Mahar
Maitland
Noland

O'Daniel
O'Malley
Parker
Radogno
Rauschenberger
Roskam
Shadid
Syverson

The following voted present:

Hendon
Ronen

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

CONSIDERATION OF MOTION IN WRITING

Pursuant to Motion in writing filed on April 6, 2000, Senator Jacobs having voted on the prevailing side moved to reconsider the vote by which Senate Amendment No. 1 to **House Bill No. 3225** failed.

And on that motion, a call of the roll was had resulting as follows:

Yeas 44; Nays 10.

The following voted in the affirmative:

Bowles
Burzynski
Clayborne
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Dudycz
Geo-Karis
Halvorson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpel
Lightford
Link

[Apr. 14, 2000]

Madigan, L.
Maitland
Mitchell
Molaro
Munoz
Noland
Obama
O'Daniel
Parker
Peterson
Petka
Radogno
Ronen
Roskam
Shaw
Sieben
Silverstein
Smith
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

The following voted in the negative:

Bomke
Donahue
Hawkinson
Lauzen
Luechtefeld
Myers
Rauschenberger
Shadid
Sullivan
Syverson

The motion prevailed.

HOUSE BILL RECALLED

On motion of Senator Dudycz, **House Bill No. 3225** was recalled from the order of third reading to the order of second reading.

Senator Dudycz offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 3225 on page 1, by replacing line 1 with the following:

"AN ACT concerning local government officials."; and
on page 2, immediately below line 30, by inserting the following:

"Section 10. The Metropolitan Water Reclamation District Act is amended by changing Section 4 as follows:

(70 ILCS 2605/4) (from Ch. 42, par. 323)

Sec. 4. The commissioners elected under this Act constitute a board of commissioners for the district by which they are elected,

[Apr. 14, 2000]

11

which board of commissioners is the corporate authority of the sanitary district, and, in addition to all other powers specified in this Act, shall establish the policies and goals of the sanitary district. The general superintendent, in addition to all other powers specified in this Act, shall manage and control all the affairs and property of the sanitary district and shall regularly report to the Board of Commissioners on the activities of the sanitary district in executing the policies and goals established by the board. At the regularly scheduled meeting of odd numbered years following the induction of new commissioners the board of commissioners shall elect from its own number a president and a vice-president to serve in the absence of the president, and the chairman of the committee on finance. The board shall provide by rule when a vacancy occurs in the office of the president, vice-president, or the chairman of the committee on finance and the manner of filling such vacancy.

The board shall appoint from outside its own number the general superintendent and treasurer for the district.

The general superintendent must be a resident of the sanitary district and a citizen of the United States. He must be selected solely upon his administrative and technical qualifications and without regard to his political affiliations.

In the event of illness or other prolonged absence, death or resignation creating a vacancy in the office of the general superintendent, or treasurer, the board of commissioners may appoint an acting officer from outside its own number, to perform the duties and responsibilities of the office during the term of the absence or vacancy.

The general superintendent with the advice and consent of the board of commissioners, shall appoint the chief engineer, chief of maintenance and operations, director of personnel, purchasing agent, clerk, attorney, director of research and development, and director of information technology. These constitute the heads of the Department of Engineering, Maintenance and Operations, Personnel, Purchasing, Finance, Law, Research and Development, and Information Technology, respectively. No other departments or heads of departments may be created without subsequent amendment to this Act. All such department heads are under the direct supervision of the general superintendent.

The director of personnel must be qualified under Section 4.2a of this Act.

The purchasing agent must be selected in accordance with Section 11.16 of this Act.

In the event of illness or other prolonged absence, death or resignation creating a vacancy in the office of chief engineer, chief of maintenance and operations, director of personnel, purchasing agent, clerk, attorney, director of research and development, or director of information technology, the general superintendent shall

appoint an acting officer to perform the duties and responsibilities of the office during the term of the absence or vacancy. Any such officers appointed in an acting capacity are under the direct supervision of the general superintendent.

All appointive officers and acting officers shall give bond as may be required by the board.

The general superintendent, treasurer, acting general superintendent and acting treasurer hold their offices at the pleasure of the board of commissioners.

The acting chief engineer, acting chief of maintenance and operations, acting purchasing agent, acting director of personnel, acting clerk, acting attorney, acting director of research and

[Apr. 14, 2000]

development, and acting director of information technology hold their offices at the pleasure of the general superintendent.

The chief engineer, chief of maintenance and operations, director of personnel, purchasing agent, clerk, attorney, director of research and development, and director of information technology may be removed from office for cause by the general superintendent. Prior to removal, such officers are entitled to a public hearing before the general superintendent at which hearing they may be represented by counsel. Before the hearing, the general superintendent shall notify the board of commissioners of the date, time, place and nature of the hearing.

In addition to the attorney appointed by the general superintendent, the board of commissioners may appoint from outside its own number an attorney, or retain counsel, to advise the board of commissioners with respect to its powers and duties and with respect to legal questions and matters of policy for which the board of commissioners is responsible.

The general superintendent is the chief administrative officer of the district, has supervision over and is responsible for all administrative and operational matters of the sanitary district including the duties of all employees which are not otherwise designated by law, and is the appointing authority as specified in Section 4.11 of this Act.

The board, through the budget process, shall fix the compensation of all the officers and employees of the sanitary district. Any incumbent of the office of president may appoint an administrative aide which appointment remains in force during his incumbency unless revoked by the president.

Effective upon the election in January, 1985 of the president and vice-president of the board of commissioners and the chairman of the committee on finance, the annual salary of the president shall be \$37,500 and shall be increased to \$39,500 in January, 1987, \$41,500 in January, 1989, ~~and~~ \$50,000 in January, 1991, and \$60,000 in January, 2001; the annual salary of the vice-president shall be \$35,000 and shall be increased to \$37,000 in January, 1987, \$39,000 in January, 1989 ~~and~~ \$45,000 in January, 1991, and \$55,000 in January, 2001; the annual salary of the chairman of the committee on finance shall be \$32,500 and shall be increased to \$34,500 in January, 1987, \$36,500 in January, 1989 ~~and~~ \$45,000 in January, 1991,

and \$55,000 in January, 2001.

The annual salaries of the other members of the Board shall be as follows:

For the three members elected in November, 1980, \$26,500 per annum for the first two years of the term; \$28,000 per annum for the next two years of the term and \$30,000 per annum for the last two years.

For the three members elected in November, 1982, \$28,000 per annum for the first two years of the term and \$30,000 per annum thereafter.

For members elected in November, 1984, \$30,000 per annum.

For the three members elected in November, 1986, \$32,000 for each of the first two years of the term, \$34,000 for each of the next two years and \$36,000 for the last two years;

For three members elected in November, 1988, \$34,000 for each of the first two years of the term and \$36,000 for each year thereafter.

For members elected in November, 1990, 1992, 1994, 1996, or 1998 ~~or thereafter~~, \$40,000.

For members elected in November, 2000 and thereafter, \$50,000.

The board of commissioners has full power to pass all necessary ordinances, orders, rules, resolutions and regulations for the proper

[Apr. 14, 2000]

management and conduct of the business of the board of commissioners and the corporation and for carrying into effect the object for which the sanitary district is formed. All ordinances, orders, rules, resolutions and regulations passed by the board of commissioners must, before they take effect, be approved by the president of the board of commissioners. If he approves thereof, he shall sign them, and such as he does not approve he shall return to the board of commissioners with his objections in writing at the next regular meeting of the board of commissioners occurring after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance making an appropriation, or to the entire ordinance. If the veto extends to a part of such ordinance, the residue takes effect. If the president of such board of commissioners fails to return any ordinance, order, rule, resolution or regulation with his objections thereto in the time required, he is deemed to have approved it, and it takes effect accordingly. Upon the return of any ordinance, order, rule, resolution, or regulation by the president, the vote by which it was passed must be reconsidered by the board of commissioners, and if upon such reconsideration two-thirds of all the members agree by yeas and nays to pass it, it takes effect notwithstanding the president's refusal to approve thereof.

It is the policy of this State that all powers granted, either expressly or by necessary implication, by this Act or any other Illinois statute to the District may be exercised by the District notwithstanding effects on competition. It is the intention of the General Assembly that the "State action exemption" to the application of federal antitrust statutes be fully available to the District to the extent its activities are authorized by law as stated herein.

(Source: P.A. 86-520; 87-1146.).

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed and the amendment was adopted and ordered printed.

And **House Bill No. 3225**, as amended, was returned to the order of third reading.

READING A BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Dudycz, **House Bill No. 3225** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 35; Nays 21.

The following voted in the affirmative:

Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Dudycz
Geo-Karis

[Apr. 14, 2000]

Hendon
Jacobs
Jones, E.
Karpel
Lightford
Madigan, L.
Mitchell
Molaro
Munoz
Obama
O'Daniel
Parker
Peterson
Petka
Ronen
Roskam
Shaw
Silverstein
Trotter
Viverito
Walsh, L.

Walsh, T.
Weaver
Welch
Mr. President

The following voted in the negative:

Bomke
Donahue
Halvorson
Hawkinson
Jones, W.
Lauzen
Link
Luechtefeld
Mahar
Maitland
Myers
Noland
O'Malley
Radogno
Rauschenberger
Shadid
Sieben
Smith
Sullivan
Syverson
Watson

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

Senator Smith asked and obtained unanimous consent for the Journal to reflect that she inadvertently voted "No" instead of "Yes" on the passage of **House Bill No. 3225**.

[Apr. 14, 2000]

**CONSIDERATION OF SENATE AMENDMENT TO HOUSE BILL
ON SECRETARY'S DESK**

On motion of Senator Dudycz, **House Bill No. 1137**, with Senate Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Dudycz moved that the Senate refuse to recede from its Amendment No. 1 to House Bill No. 1137 and that a First Committee of Conference consisting of five members on the part of the Senate and five members on the part of the House be appointed to adjust the differences between the two Houses in regard to said amendment.

The motion prevailed.

The President appointed as such Committee on the part of the Senate, the following: Senators Dillard, Dudycz, Klemm, Ronen and L. Walsh.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 12:28 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 2:58 o'clock p.m., the Senate resumed consideration of business.

Senator Dudycz, presiding.

LEGISLATIVE MEASURE FILED

The following floor amendment to the House Bill listed below has been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 3 to House Bill 3939

REPORT FROM RULES COMMITTEE

Senator Weaver, Chairperson of the Committee on Rules, reported that the following Legislative Measure has been approved for consideration:

Senate Amendment No. 3 to House Bill 3939

The foregoing floor amendment was placed on the Secretary's Desk.

REPORTS FROM STANDING COMMITTEES

Senator Klemm, Chairperson of the Committee on Executive to which was referred **Senate floor Amendment No. 4 to House Bill No. 3876**, reported the same back with the recommendation that it be adopted.

Under the rules, the foregoing amendment is eligible for consideration on second reading.

Senator Klemm, Chairperson of the Committee on Executive to which was referred **Senate floor Amendment No. 2 to House Bill No. 3939**, reported the same back with the recommendation that it be adopted.

[Apr. 14, 2000]

Under the rules, the foregoing amendment is eligible for consideration on second reading.

Senator Peterson, Chairperson of the Committee on Revenue, to which was referred the **Motion to concur with House Amendments numbered 1 and 2 to Senate Bill No. 1627**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

PRESENTATION OF RESOLUTION

SENATE RESOLUTION NO. 351

Offered by Senator Sullivan and all Senators:
Mourns the death of Justin Fortuna of Mt. Prospect.

The foregoing resolution was referred to the Resolutions Consent Calendar.

At the hour of 3:05 o'clock p. m, Senator Donahue presiding.

CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Luechtefeld moved that **Senate Resolution No. 331**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Luechtefeld moved that Senate Resolution No. 331 be adopted.

The motion prevailed.

And the resolution was adopted.

Senator Karpriel moved that **Senate Joint Resolution No. 69**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Joint Resolution 69 as follows:
on page 2, by replacing lines 8 and 9 with the following:
"Representatives, and one of whom shall be a consumer who is not a member of the Health Facilities Planning Board and who will be appointed jointly by the Co-chairpersons of the Task Force;" and
by replacing line 11 with the following:

"RESOLVED, That the Task Force shall include 9 non-voting"; and
by replacing lines 21 and 22 with the following:
"one of whom shall be a representative designated by the Illinois Freestanding Surgery Center Association, one of whom shall be a consumer who is not a member of the Health Facilities Planning Board and who will be appointed jointly by the co-chairpersons of the Task Force, and one"; and
by replacing lines 24 and 25 with the following:
"Board; and be it further".

Senator Karpriel moved that **Senate Joint Resolution No. 69**, as amended, be adopted.

And on that motion a call of the roll was had resulting as follows:

[Apr. 14, 2000]

17

Yeas 59; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpiel
Klemm
Lauzen
Lightford
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben

Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson

[Apr. 14, 2000]

18

Weaver
Welch
Mr. President

The motion prevailed.

And the resolution, as amended, was adopted.

Ordered that the Secretary inform the House of Representatives thereof, and ask their concurrence therein.

Senator Klemm moved that **Senate Joint Resolution No. 71**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Klemm moved that Senate Joint Resolution No. 71, be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 59; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpiel
Klemm
Lauzen

Lightford
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka

[Apr. 14, 2000]

19

Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof, and ask their concurrence therein.

Senator Maitland moved that **Senate Joint Resolution No. 72**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Maitland moved that Senate Joint Resolution No. 72, be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 55; Nays 3.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpiel
Klemm
Lauzen
Lightford
Link
Luechtefeld
Madigan, L.

[Apr. 14, 2000]

Madigan, R.
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson

Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Mr. President

The following voted in the negative:

Demuzio
Dillard
Welch

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof, and ask their concurrence therein.

HOUSE BILL RECALLED

On motion of Senator O'Malley, **House Bill No. 3876** was recalled from the order of third reading to the order of second reading.

Senator O'Malley moved to reconsider the vote by which Amendment No. 3 was adopted.

The motion prevailed.

Senator O'Malley moved that Amendment No. 3 to **House Bill No. 3876** be ordered to lie on the table.

The motion to table prevailed.

Senator O'Malley offered the following amendment and moved its adoption:

AMENDMENT NO. 4

AMENDMENT NO. 4. Amend House Bill 3876 by replacing the title with the following:

[Apr. 14, 2000]

21

"AN ACT concerning tax rebates."; and
by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Income Tax Act is amended by adding Section 208.1 as follows:

(35 ILCS 5/208.1 new)

Sec. 208.1. Homeowners' Tax Relief rebate.

(a) The Department shall pay a rebate to taxpayers in the amount of the Illinois income tax credit allowed under Section 208 with respect to the taxpayer's 1999 Illinois income tax return for residential real property taxes paid on the principal residence of the taxpayer. The rebate shall not, however, exceed \$300 per principal residence. The rebate shall be paid to all eligible taxpayers who have filed a 1999 Illinois income tax return on or before October 17, 2000.

(b) Before June 30, 2000, the Comptroller shall order

transferred and the Treasurer shall transfer \$280,000,000 from the Tobacco Settlement Recovery Fund to the Homeowners' Tax Relief Fund, a special fund in the State Treasury. Subject to appropriation, the Department shall make the rebate payments out of the Homeowners' Tax Relief Fund.

(c) The Department shall certify the names of the taxpayers whose returns were filed on or before July 17, 2000 and the rebate amounts to the Comptroller by August 15, 2000. The Comptroller shall mail the rebate warrants to these taxpayers by October 17, 2000.

(d) The Department shall certify the names of the taxpayers whose returns were filed after July 17, 2000 and on or before October 17, 2000 and the rebate amounts to the Comptroller by November 17, 2000. The Comptroller shall mail the rebate warrants to these taxpayers by December 15, 2000.

(e) Any unencumbered amount in the Homeowners' Tax Relief Fund on January 1, 2001 shall be transferred to the Budget Stabilization Fund, a special fund in the State Treasury, and any amount remaining in the Homeowners' Tax Relief Fund on July 1, 2001 shall be transferred to the Budget Stabilization Fund.

Section 10. The State Finance Act is amended by adding Sections 5.541 and 5.542 as follows:

(30 ILCS 105/5.541 new)

Sec. 5.541. The Homeowners' Tax Relief Fund.

(30 ILCS 105/5.542 new)

Sec. 5.542. The Budget Stabilization Fund.

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed and the amendment was adopted and ordered printed.

And **House Bill No. 3876**, as amended, was returned to the order of third reading.

READING A BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator O'Malley, **House Bill No. 3876** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 59; Nays None.

The following voted in the affirmative:

[Apr. 14, 2000]

DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpier
Klemm
Lauzen
Lightford
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

[Apr. 14, 2000]

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

At the hour of 3:28 o'clock p.m., Senator Dudycz presiding.

HOUSE BILL RECALLED

On motion of Senator Peterson, **House Bill No. 3939** was recalled from the order of third reading to the order of second reading.

Floor Amendment No. 1 was held in the Committee on Executive.

Senator Klemm offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 3939 by replacing the title with the following:

"AN ACT to amend the Illinois Income Tax Act by changing Section 901 and adding Section 212."; and
by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Income Tax Act is amended by changing Section 901 and adding Section 212 as follows:

(35 ILCS 5/212 new)

Sec. 212. Earned income tax credit.

(a) With respect to the federal earned income tax credit allowed for the taxable year under Section 32 of the federal Internal Revenue Code, 26 U.S.C. 32, each individual taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 5% of the federal tax credit for each taxable year beginning on or after January 1, 2000 and ending on or before December 31, 2002.

For a non-resident or part-year resident, the amount of the credit under this Section shall be in proportion to the amount of income attributable to this State.

(b) In no event shall a credit under this Section reduce the taxpayer's liability to less than zero.

(c) This Section is repealed on June 1, 2003.

(35 ILCS 5/901) (from Ch. 120, par. 9-901)

Sec. 901. Collection Authority.

(a) In general.

The Department shall collect the taxes imposed by this Act. The Department shall collect certified past due child support amounts under Section 2505-650 of the Department of Revenue Law (20 ILCS 2505/2505-650). Except as provided in subsections (c) and (e) of this Section, money collected pursuant to subsections (a) and (b) of Section 201 of this Act shall be paid into the General Revenue Fund in the State treasury; money collected pursuant to subsections (c) and (d) of Section 201 of this Act shall be paid into the Personal Property Tax Replacement Fund, a special fund in the State Treasury; and money collected under Section 2505-650 of the Department of

Revenue Law (20 ILCS 2505/2505-650) shall be paid to the State Disbursement Unit established under Section 10-26 of the Illinois Public Aid Code.

(b) Local Governmental Distributive Fund.

Beginning August 1, 1969, and continuing through June 30, 1994, the Treasurer shall transfer each month from the General Revenue Fund

[Apr. 14, 2000]

to a special fund in the State treasury, to be known as the "Local Government Distributive Fund", an amount equal to 1/12 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act during the preceding month. Beginning July 1, 1994, and continuing through June 30, 1995, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to 1/11 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act during the preceding month. Beginning July 1, 1995, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to 1/10 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act during the preceding month. Net revenue realized for a month shall be defined as the revenue from the tax imposed by subsections (a) and (b) of Section 201 of this Act which is deposited in the General Revenue Fund, the Educational Assistance Fund and the Income Tax Surcharge Local Government Distributive Fund during the month minus the amount paid out of the General Revenue Fund in State warrants during that same month as refunds to taxpayers for overpayment of liability under the tax imposed by subsections (a) and (b) of Section 201 of this Act.

(c) Deposits Into Income Tax Refund Fund.

(1) Beginning on January 1, 1989 and thereafter, the Department shall deposit a percentage of the amounts collected pursuant to subsections (a) and (b)(1), (2), and (3), of Section 201 of this Act into a fund in the State treasury known as the Income Tax Refund Fund. The Department shall deposit 6% of such amounts during the period beginning January 1, 1989 and ending on June 30, 1989. Beginning with State fiscal year 1990 and for each fiscal year thereafter, the percentage deposited into the Income Tax Refund Fund during a fiscal year shall be the Annual Percentage. For fiscal years 1999 through 2001, the Annual Percentage shall be 7.1%. For all other fiscal years, the Annual Percentage shall be calculated as a fraction, the numerator of which shall be the amount of refunds approved for payment by the Department during the preceding fiscal year as a result of overpayment of tax liability under subsections (a) and (b)(1), (2), and (3) of Section 201 of this Act plus the amount of such refunds remaining approved but unpaid at the end of the preceding fiscal year, the denominator of which shall be the amounts which will be collected pursuant to subsections (a) and (b)(1), (2), and (3) of Section 201 of this Act during the preceding fiscal year. The Director of Revenue shall certify the Annual Percentage to the Comptroller on the last business day of the

fiscal year immediately preceding the fiscal year for which it is to be effective.

(2) Beginning on January 1, 1989 and thereafter, the Department shall deposit a percentage of the amounts collected pursuant to subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act into a fund in the State treasury known as the Income Tax Refund Fund. The Department shall deposit 18% of such amounts during the period beginning January 1, 1989 and ending on June 30, 1989. Beginning with State fiscal year 1990 and for each fiscal year thereafter, the percentage deposited into the Income Tax Refund Fund during a fiscal year shall be the Annual Percentage. For fiscal years 1999, 2000, and 2001, the Annual Percentage shall be 19%. For all other fiscal years, the Annual Percentage shall be calculated as a fraction, the numerator of which shall be the amount of refunds approved

[Apr. 14, 2000]

25

for payment by the Department during the preceding fiscal year as a result of overpayment of tax liability under subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act plus the amount of such refunds remaining approved but unpaid at the end of the preceding fiscal year, the denominator of which shall be the amounts which will be collected pursuant to subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act during the preceding fiscal year. The Director of Revenue shall certify the Annual Percentage to the Comptroller on the last business day of the fiscal year immediately preceding the fiscal year for which it is to be effective.

(3) The Comptroller shall order transferred and the Treasurer shall transfer from the Tobacco Settlement Recovery Fund to the Income Tax Refund Fund (i) \$35,000,000 in June, 2000, (ii) \$35,000,000 in June, 2001, and (iii) \$35,000,000 in June, 2002.

(d) Expenditures from Income Tax Refund Fund.

(1) Beginning January 1, 1989, money in the Income Tax Refund Fund shall be expended exclusively for the purpose of paying refunds resulting from overpayment of tax liability under Section 201 of this Act and for making transfers pursuant to this subsection (d).

(2) The Director shall order payment of refunds resulting from overpayment of tax liability under Section 201 of this Act from the Income Tax Refund Fund only to the extent that amounts collected pursuant to Section 201 of this Act and transfers pursuant to this subsection (d) and item (3) of subsection (c) have been deposited and retained in the Fund.

(3) As soon as possible after the end of each fiscal year, the Director shall order transferred and the State Treasurer and State Comptroller shall transfer from the Income Tax Refund Fund to the Personal Property Tax Replacement Fund an amount, certified by the Director to the Comptroller, equal to the excess of the amount collected pursuant to subsections (c) and (d) of Section 201 of this Act deposited into the Income Tax Refund Fund during the fiscal year over the amount of refunds resulting from

overpayment of tax liability under subsections (c) and (d) of Section 201 of this Act paid from the Income Tax Refund Fund during the fiscal year.

(4) As soon as possible after the end of each fiscal year, the Director shall order transferred and the State Treasurer and State Comptroller shall transfer from the Personal Property Tax Replacement Fund to the Income Tax Refund Fund an amount, certified by the Director to the Comptroller, equal to the excess of the amount of refunds resulting from overpayment of tax liability under subsections (c) and (d) of Section 201 of this Act paid from the Income Tax Refund Fund during the fiscal year over the amount collected pursuant to subsections (c) and (d) of Section 201 of this Act deposited into the Income Tax Refund Fund during the fiscal year.

(4.5) As soon as possible after the end of fiscal year 1999 and of each fiscal year thereafter, the Director shall order transferred and the State Treasurer and State Comptroller shall transfer from the Income Tax Refund Fund to the General Revenue Fund any surplus remaining in the Income Tax Refund Fund as of the end of such fiscal year; excluding for fiscal years 2000, 2001, and 2002 amounts attributable to transfers under item (3) of subsection (c) less refunds resulting from the earned income tax credit.

(5) This Act shall constitute an irrevocable and continuing

[Apr. 14, 2000]

appropriation from the Income Tax Refund Fund for the purpose of paying refunds upon the order of the Director in accordance with the provisions of this Section.

(e) Deposits into the Education Assistance Fund and the Income Tax Surcharge Local Government Distributive Fund.

On July 1, 1991, and thereafter, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of this Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 7.3% into the Education Assistance Fund in the State Treasury. Beginning July 1, 1991, and continuing through January 31, 1993, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 3.0% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury. Beginning February 1, 1993 and continuing through June 30, 1993, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 4.4% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury. Beginning July 1, 1993, and continuing through June 30, 1994, of the amounts collected under subsections (a) and (b) of Section 201 of this Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 1.475% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury. (Source: P.A. 90-613, eff. 7-9-98; 90-655, eff. 7-30-98; 91-212, eff. 7-20-99; 91-239, eff. 1-1-00; revised 9-28-99.)

Section 99. Effective date. This Act takes effect upon becoming

law."

The motion prevailed and the amendment was adopted and ordered printed.

Senator Klemm offered the following amendment and moved its adoption:

AMENDMENT NO. 3

AMENDMENT NO. 3. Amend House Bill 3939, AS AMENDED, with reference to the page and line numbers of Senate Amendment No. 2, on page 5 by replacing lines 8 and 9 with the following:

"\$35,000,000 in January, 2001, (ii) \$35,000,000 in January, 2002, and (iii) \$35,000,000 in January, 2003."

The motion prevailed and the amendment was adopted and ordered printed.

And **House Bill No. 3939**, as amended, was returned to the order of third reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Peterson, **House Bill No. 3939** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 59; Nays None.

The following voted in the affirmative:

Bomke
Bowles

[Apr. 14, 2000]

Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpel

Klemm
Lauzen
Lightford
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not

[Apr. 14, 2000]

adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Radogno, **House Bill No. 3872** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 59; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpier
Klemm
Lauzen
Lightford
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw

[Apr. 14, 2000]

Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

**CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILL
ON SECRETARY'S DESK**

On motion of Senator T. Walsh, **Senate Bill No. 1627**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator T. Walsh moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 58; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, E.
Jones, W.
Karpier
Klemm
Lauzen

Lightford
Link
Luechtefeld

[Apr. 14, 2000]

30

Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1627**.

Ordered that the Secretary inform the House of Representatives thereof.

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage

of a bill of the following title, to-wit:

SENATE BILL NO. 1653

A bill for AN ACT to amend the Public Utilities Act by changing Sections 4-202, 4-203, 5-202, and 16-125.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1653

Passed the House, as amended, April 13, 2000.

[Apr. 14, 2000]

31

ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1653

AMENDMENT NO. 1. Amend Senate Bill 1653 by replacing the title with the following:

"AN ACT to amend the Public Utilities Act by changing Sections 16-102, 16-116, 16-124, and 16-128 and adding Sections 16-115C, 16-115D, and 16-115E."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Sections 16-102, 16-116, 16-124, and 16-128 and adding Sections 16-115C, 16-115D, and 16-115E as follows:

(220 ILCS 5/16-102)

Sec. 16-102. Definitions. For the purposes of this Article the following terms shall be defined as set forth in this Section.

"Alternative retail electric supplier" means every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers electric power or energy for sale, lease or in exchange for other value received to one or more retail customers, or that engages in the delivery or furnishing of electric power or energy to such retail customers, and shall include, without limitation, resellers, aggregators and power marketers, but shall not include (i) electric utilities (or any agent of the electric utility to the extent the electric utility provides tariffed services to retail customers through that agent), (ii) any electric cooperative or municipal system as defined in Section 17-100 to the extent that the electric cooperative or municipal system is serving retail customers within any area in which it is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, (iii) a public utility that is owned and operated by any public institution of higher education of this State, or a public utility that is owned by such public institution of higher education and operated by any of its lessees or operating agents, within any area in which it is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, (iv) a retail customer to the extent that customer obtains its

electric power and energy from that customer's own cogeneration or self-generation facilities, (v) an entity that owns, operates, sells, or arranges for the installation of a customer's own cogeneration or self-generation facilities, but only to the extent the entity is engaged in owning, selling or arranging for the installation of such facility, or operating the facility on behalf of such customer, provided however that any such third party owner or operator of a facility built after January 1, 1999, complies with the labor provisions of Section 16-128(a) as though such third party were an alternative retail electric supplier, or (vi) an industrial or manufacturing customer that owns its own distribution facilities, to the extent that the customer provides service from that distribution system to a third-party contractor located on the customer's premises that is integrally and predominantly engaged in the customer's industrial or manufacturing process; provided, that if the industrial or manufacturing customer has elected delivery services, the customer shall pay transition charges applicable to the electric power and energy consumed by the third-party contractor unless such charges are otherwise paid by the third party contractor, which shall be calculated based on the usage of, and the base rates or the contract rates applicable to, the third-party contractor in accordance with

[Apr. 14, 2000]

Section 16-102.

"Base rates" means the rates for those tariffed services that the electric utility is required to offer pursuant to subsection (a) of Section 16-103 and that were identified in a rate order for collection of the electric utility's base rate revenue requirement, excluding (i) separate automatic rate adjustment riders then in effect, (ii) special or negotiated contract rates, (iii) delivery services tariffs filed pursuant to Section 16-108, (iv) real-time pricing, or (v) tariffs that were in effect prior to October 1, 1996 and that based charges for services on an index or average of other utilities' charges, but including (vi) any subsequent redesign of such rates for tariffed services that is authorized by the Commission after notice and hearing.

"Competitive service" includes (i) any service that has been declared to be competitive pursuant to Section 16-113 of this Act, (ii) contract service, and (iii) services, other than tariffed services, that are related to, but not necessary for, the provision of electric power and energy or delivery services.

"Contract service" means (1) services, including the provision of electric power and energy or other services, that are provided by mutual agreement between an electric utility and a retail customer that is located in the electric utility's service area, provided that, delivery services shall not be a contract service until such services are declared competitive pursuant to Section 16-113; and also means (2) the provision of electric power and energy and the provision of the services set forth in the definition of "provider of unbundled delivery services" in this Section by an electric utility to retail customers outside the electric utility's service area pursuant to Section 16-116. Provided, however, contract service does not include electric utility services provided pursuant to (i)

contracts that retail customers are required to execute as a condition of receiving tariffed services, or (ii) special or negotiated rate contracts for electric utility services that were entered into between an electric utility and a retail customer prior to the effective date of this amendatory Act of 1997 and filed with the Commission.

"Delivery services" means those services provided by the electric utility that are necessary in order for the transmission and distribution systems to function so that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility, and shall include, without limitation, standard metering and billing services.

"Electric utility" means a public utility, as defined in Section 3-105 of this Act, that has a franchise, license, permit or right to furnish or sell electricity to retail customers within a service area.

"Mandatory transition period" means the period from the effective date of this amendatory Act of 1997 through January 1, 2005.

"Provider of unbundled delivery services" means every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers to a retail customer for sale, lease, or other value received any metering service other than that excluded by clause (iv) of this definition or unbundled delivery services (other than those delivery services regulated by the Federal Energy Regulatory Commission) that is specified in a Commission order requiring an electric utility to unbundle its delivery services under Section 16-108 or 16-109, but the term "provider of unbundled delivery services" shall not include (i) an

[Apr. 14, 2000]

electric utility (or any agent of the electric utility to the extent the electric utility provides tariffed services to retail customers through that agent) within the utility's service area, (ii) any electric cooperative or municipal system as defined in Section 17-100 to the extent that the electric cooperative or municipal system is serving retail customers within any area in which it is or would be entitled to provide service under the law in effect immediately prior to December 16, 1997, (iii) a public utility that is owned and operated by any public institution of higher education of this State, or a public utility that is owned by such public institution of higher education and operated by any of its lessees or operating agents, within any area in which it is or would be entitled to provide service under the law in effect immediately prior to December 16, 1997, or (iv) a provider of meter services that installs, provides, or maintains equipment on the premises of a retail customer under circumstances in which no entity other than the retail customer relies on the accuracy, safety, or proper installation and maintenance of the equipment.

"Municipal system" shall have the meaning set forth in Section 17-100.

"Real-time pricing" means charges for delivered electric power

and energy that vary on an hour-to-hour basis for nonresidential retail customers and that vary on a periodic basis during the day for residential retail customers.

"Retail customer" means a single entity using electric power or energy at a single premises and that (A) either (i) is receiving or is eligible to receive tariffed services from an electric utility, or (ii) that is served by a municipal system or electric cooperative within any area in which the municipal system or electric cooperative is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, or (B) an entity which on the effective date of this Act was receiving electric service from a public utility and (i) was engaged in the practice of resale and redistribution of such electricity within a building prior to January 2, 1957, or (ii) was providing lighting services to tenants in a multi-occupancy building, but only to the extent such resale, redistribution or lighting service is authorized by the electric utility's tariffs that were on file with the Commission on the effective date of this Act.

"Service area" means (i) the geographic area within which an electric utility was lawfully entitled to provide electric power and energy to retail customers as of the effective date of this amendatory Act of 1997, and includes (ii) the location of any retail customer to which the electric utility was lawfully providing electric utility services on such effective date.

"Small commercial retail customer" means those nonresidential retail customers of an electric utility consuming 15,000 kilowatt-hours or less of electricity annually in its service area.

"Tariffed service" means services provided to retail customers by an electric utility as defined by its rates on file with the Commission pursuant to the provisions of Article IX of this Act, but shall not include competitive services.

"Transition charge" means a charge expressed in cents per kilowatt-hour that is calculated for a customer or class of customers as follows for each year in which an electric utility is entitled to recover transition charges as provided in Section 16-108:

- (1) the amount of revenue that an electric utility would receive from the retail customer or customers if it were serving such customers' electric power and energy requirements as a tariffed service based on (A) all of the customers' actual usage

[Apr. 14, 2000]

during the 3 years ending 90 days prior to the date on which such customers were first eligible for delivery services pursuant to Section 16-104, and (B) on (i) the base rates in effect on October 1, 1996 (adjusted for the reductions required by subsection (b) of Section 16-111, for any reduction resulting from a rate decrease under Section 16-101(b), for any restatement of base rates made in conjunction with an elimination of the fuel adjustment clause pursuant to subsection (b), (d), or (f) of Section 9-220 and for any removal of decommissioning costs from base rates pursuant to Section 16-114) and any separate automatic rate adjustment riders (other than a decommissioning rate as defined in Section 16-114) under which the customers were

receiving or, had they been customers, would have received electric power and energy from the electric utility during the year immediately preceding the date on which such customers were first eligible for delivery service pursuant to Section 16-104, or (ii) to the extent applicable, any contract rates, including contracts or rates for consolidated or aggregated billing, under which such customers were receiving electric power and energy from the electric utility during such year;

(2) less the amount of revenue, other than revenue from transition charges and decommissioning rates, that the electric utility would receive from such retail customers for delivery services provided by the electric utility, assuming such customers were taking delivery services for all of their usage, based on the delivery services tariffs in effect during the year for which the transition charge is being calculated and on the usage identified in paragraph (1);

(3) less the market value for the electric power and energy that the electric utility would have used to supply all of such customers' electric power and energy requirements, as a tariffed service, based on the usage identified in paragraph (1), with such market value determined in accordance with Section 16-112 of this Act;

(4) less the following amount which represents the amount to be attributed to new revenue sources and cost reductions by the electric utility through the end of the period for which transition costs are recovered pursuant to Section 16-108, referred to in this Article XVI as a "mitigation factor":

(A) for nonresidential retail customers, an amount equal to the greater of (i) 0.5 cents per kilowatt-hour during the period October 1, 1999 through December 31, 2004, 0.6 cents per kilowatt-hour in calendar year 2005, and 0.9 cents per kilowatt-hour in calendar year 2006, multiplied in each year by the usage identified in paragraph (1), or (ii) an amount equal to the following percentages of the amount produced by applying the applicable base rates (adjusted as described in subparagraph (1)(B)) or contract rate to the usage identified in paragraph (1): 8% for the period October 1, 1999 through December 31, 2002, 10% in calendar years 2003 and 2004, 11% in calendar year 2005 and 12% in calendar year 2006; and

(B) for residential retail customers, an amount equal to the following percentages of the amount produced by applying the base rates in effect on October 1, 1996 (adjusted as described in subparagraph (1)(B)) to the usage identified in paragraph (1): (i) 6% from May 1, 2002 through December 31, 2002, (ii) 7% in calendar years 2003 and 2004, (iii) 8% in calendar year 2005, and (iv) 10% in calendar year 2006;

[Apr. 14, 2000]

(5) divided by the usage of such customers identified in paragraph (1),
provided that the transition charge shall never be less than zero.

"Unbundled service" means a component or constituent part of a tariffed service which the electric utility subsequently offers separately to its customers.

(Source: P.A. 90-561, eff. 12-16-97; 91-50, eff. 6-30-99.)

(220 ILCS 5/16-115C new)

Sec. 16-115C. Obligations and certification of providers of unbundled delivery services.

(a) Any provider of unbundled delivery services must obtain a certificate of service authority from the Commission in accordance with this Section before providing the services identified in the definition of "provider of unbundled delivery services" in Section 16-102.

(b) A provider of unbundled delivery services seeking a certificate of service authority shall file with the Commission a verified application containing information showing that the applicant meets the requirements of this Section. The provider of unbundled delivery services shall publish notice of its application in the official State newspaper within 10 days following the date of its filing. No later than 45 days after the application is properly filed with the Commission, and such notice is published, the Commission shall issue its order granting or denying the application.

(c) The Commission shall grant the application for a certificate of service authority if it makes the findings set forth in this subsection based on the verified application and such other information as the applicant may submit:

(1) that the applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the service for which it seeks a certificate of service authority. In determining the level of technical, financial, and managerial resources and abilities which the applicant must demonstrate, the Commission shall consider the characteristics, including the size and financial sophistication, of the customers that the applicant seeks to serve;

(2) that the applicant will comply with all applicable federal, State, regional, and industry rules, policies, practices, and procedures for the use, operation, and maintenance of the safety, integrity, and reliability of the inter-connected electric delivery system;

(3) that the applicant will only provide service to retail customers in an electric utility's service area that are taking delivery services under this Act;

(4) that the applicant will comply with such informational, testing, accuracy, and reporting requirements as the Commission may by rule establish;

(5) that the applicant will comply with the provisions of Section 16-128 of this Act; and

(6) that the applicant will comply with all other applicable laws and rules.

(d) The Commission shall have the authority to promulgate rules to carry out the provisions of this Section.

(220 ILCS 5/16-115D new)

Sec. 16-115D. Obligations of providers of unbundled delivery services.

(a) A provider of unbundled delivery services shall:

(1) comply with the requirements imposed on public utilities by Sections 8-201 through 8-207, 8-301, 8-302, 8-303, 8-305, 8-505, and 8-507 of this Act, to the extent that these

Sections have application to the services being offered by the provider of unbundled delivery services; and

(2) continue to comply with the requirements for certification stated in subsection (c) of Section 16-115C.

(b) A provider of unbundled delivery services shall obtain verifiable authorization from a customer, in a form or manner approved by the Commission in the manner provided by Section 2EE of the Consumer Fraud and Deceptive Business Practices Act, before the customer is switched from another provider.

(220 ILCS 5/16-115E new)

Sec. 16-115E. Commission oversight of services provided by providers of unbundled delivery services.

(a) The Commission shall have jurisdiction in accordance with the provisions of Article X of this Act to entertain and dispose of any complaint against any provider of unbundled delivery services alleging (i) that the provider of unbundled delivery services has violated or is in nonconformance with any applicable provisions of Section 16-115C through Section 16-115D; (ii) that a provider of unbundled delivery services serving retail customers having maximum demands of less than one megawatt has failed to provide service in accordance with the terms of its contract or contracts with such customer or customers; (iii) that the provider of unbundled delivery services has violated or is in non-conformance with the delivery services tariff of, or any of its agreements relating to delivery services with, the electric utility, municipal system, or electric cooperative providing delivery services; or (iv) that the provider of unbundled delivery services has violated or failed to comply with the requirements of Sections 8-201 through 8-207, 8-301, 8-302, 8-303, 8-305, 8-505, or 8-507 of this Act as made applicable to providers of unbundled delivery services.

(b) The Commission shall have authority, after notice and hearing held on complaint or on the Commission's own motion:

(1) to order a provider of unbundled delivery services to cease and desist, or correct, any violation of or non-conformance with the provisions of Section 16-115C or Section 16-115D;

(2) to impose financial penalties for violations of or non-conformances with the provisions of Section 16-115C or Section 16-115D, not to exceed (i) \$10,000 per occurrence or (ii) \$30,000 per day for those violations or non-conformances which continue after the Commission issues a cease-and-desist order; and

(3) to alter, modify, revoke, or suspend the certificate of service authority of a provider of unbundled delivery services for substantial or repeated violations of or non-conformances with the provisions of Section 16-115C or Section 16-115D.

(220 ILCS 5/16-116)

Sec. 16-116. Commission oversight of electric utilities serving retail customers outside their service areas or providing competitive, non-tariffed services.

(a) An electric utility that has a tariff on file for delivery services may, without regard to any otherwise applicable tariffs on

file, provide electric power and energy or services as described in the definition of "provider of unbundled delivery services" in Section 16-102 to one or more retail customers located outside its service area, but only to the extent (i) such retail customer (A) is eligible for delivery services under any delivery services tariff filed with the Commission by the electric utility in whose service area the retail customer is located and (B) has either elected to take such delivery services or has paid or contracted to pay the charges specified in Sections 16-108 and 16-114, or (ii) if such

[Apr. 14, 2000]

retail customer is served by a municipal system or electric cooperative, the customer is eligible for delivery services under the terms and conditions for such service established by the municipal system or electric cooperative serving that customer.

(b) An electric utility may offer any competitive service to any customer or group of customers without filing contracts with or seeking approval of the Commission, notwithstanding any rule or regulation that would require such approval. The Commission shall not increase or decrease the prices, and may not alter or add to the terms and conditions for the utility's competitive services, from those agreed to by the electric utility and the customer or customers. Non-tariffed, competitive services shall not be subject to the provisions of the Electric Supplier Act or to Articles V, VII, VIII or IX of the Act, except to the extent that any provisions of such Articles are made applicable to alternative retail electric suppliers pursuant to Sections 16-115 and 16-115A, but shall be subject to the provisions of subsections (b) through (g) of Section 16-115A, and Section 16-115B to the same extent such provisions are applicable to the services provided by alternative retail electric suppliers. Non-tariffed, competitive services related to the provision of meter services and unbundled delivery services shall not be subject to the provisions of the Electric Supplier Act or to Articles V, VII, VIII, or IX of this Act, except to the extent that any provisions of such Articles are made applicable to providers of unbundled delivery services pursuant to Sections 16-115C and 16-115D, but shall be subject to the provisions of Section 16-115D and Section 16-115E.

(Source: P.A. 90-561, eff. 12-16-97.)

(220 ILCS 5/16-124)

Sec. 16-124. Metering for residential and small commercial retail customers. An electric utility shall not require a residential or small commercial retail customer to take additional metering or metering capability as a condition of taking delivery services unless the Commission finds, after notice and hearing, that additional metering or metering capability is required to meet reliability requirements. Alternative retail electric suppliers serving such customers may provide such additional metering or metering capability at their own expense or for value received if the alternative retail electric supplier has obtained a certificate of service authority under Section 16-115C, or take such additional metering or metering capability as a tariffed service from the utility in whose service area such customers take service ~~as a tariffed service, or take such~~

additional metering service or metering capability from an electric utility other than the utility in whose service area such customers take service, or from a provider of unbundled delivery services. Any additional metering requirements shall be imposed in a nondiscriminatory manner. Nothing in this subsection shall be construed to prevent the normal maintenance, replacement or upgrade of meters as required to comply with Commission rules.

(Source: P.A. 90-561, eff. 12-16-97.)

(220 ILCS 5/16-128)

Sec. 16-128. Provisions related to utility employees during the mandatory transition period.

(a) The General Assembly finds:

(1) The reliability and safety of the electric system has depended on a workforce of skilled and dedicated employees, equipped with technical training and experience.

(2) The integrity and reliability of the system has also depended on the industry's commitment to invest in regular inspection and maintenance, to assure that it can withstand the

[Apr. 14, 2000]

demands of heavy service requirements and emergency situations.

(3) It is in the State's interest to protect the interests of utility employees who have dedicated themselves to assuring reliable service to the citizens of this State, and who might otherwise be economically displaced in a restructured industry.

The General Assembly further finds that it is necessary to assure that employees operating in the deregulated industry have the requisite skills, knowledge, and competence to provide reliable and safe electrical service and therefore that alternative retail electric suppliers shall be required to demonstrate the competence of their employees to work in the industry.

The knowledge, skill, and competence levels to be demonstrated shall be consistent with those generally required of or by the electric utilities in this State with respect to their employees.

Adequate demonstration of requisite knowledge, skill and competence shall include such factors as completion by the employee of an accredited or otherwise recognized apprenticeship program for the particular craft, trade or skill, or specified years of employment with an electric utility performing a particular work function.

To implement this requirement, the Commission, in determining that an applicant meets the standards for certification as an alternative retail electric supplier or provider of unbundled delivery services, shall require the applicant to demonstrate (i) that the applicant is licensed to do business, and bonded, in the State of Illinois; and (ii) that the employees of the applicant that will be installing, operating, and maintaining generation, transmission, ~~or~~ distribution, or metering facilities within this State, or any entity with which the applicant has contracted to perform those functions within this State, have the requisite knowledge, skills, and competence to perform those functions in a safe and responsible manner in order to provide safe and reliable service, in accordance with the criteria stated above.

(b) The General Assembly finds, based on experience in other industries that have undergone similar transitions, that the introduction of competition into the State's electric utility industry may result in workforce reductions by electric utilities which may adversely affect persons who have been employed by this State's electric utilities in functions important to the public convenience and welfare. The General Assembly further finds that the impacts on employees and their communities of any necessary reductions in the utility workforce directly caused by this restructuring of the electric industry shall be mitigated to the extent practicable through such means as offers of voluntary severance, retraining, early retirement, outplacement and related benefits. Therefore, before any such reduction in the workforce during the transition period, an electric utility shall present to its employees or their representatives a workforce reduction plan outlining the means by which the electric utility intends to mitigate the impact of such workforce reduction on its employees.

(c) In the event of a sale, purchase, or any other transfer of ownership during the mandatory transition period of one or more Illinois divisions or business units, and/or generating stations or generating units, of an electric utility, the electric utility's contract and/or agreements with the acquiring entity or persons shall require that the entity or persons hire a sufficient number of non-supervisory employees to operate and maintain the station, division or unit by initially making offers of employment to the non-supervisory workforce of the electric utility's division, business unit, generating station and/or generating unit at no less

[Apr. 14, 2000]

than the wage rates, and substantially equivalent fringe benefits and terms and conditions of employment that are in effect at the time of transfer of ownership of said division, business unit, generating station, and/or generating units; and said wage rates and substantially equivalent fringe benefits and terms and conditions of employment shall continue for at least 30 months from the time of said transfer of ownership unless the parties mutually agree to different terms and conditions of employment within that 30-month period. The utility shall offer a transition plan to those employees who are not offered jobs by the acquiring entity because that entity has a need for fewer workers. If there is litigation concerning the sale, or other transfer of ownership of the electric utility's divisions, business units, generating station, or generating units, the 30-month period will begin on the date the acquiring entity or persons take control or management of the divisions, business units, generating station or generating units of the electric utility.

(d) If a utility transfers ownership during the mandatory transition period of one or more Illinois divisions, business units, generating stations or generating units of an electric utility to a majority-owned subsidiary, that subsidiary shall continue to employ the utility's employees who were employed by the utility at such division, business unit or generating station at the time of the transfer under the same terms and conditions of employment as those employees enjoyed at the time of the transfer. If ownership of the

subsidiary is subsequently sold or transferred to a third party during the transition period, the transition provisions outlined in subsection (c) shall apply.

(e) The plant transfer provisions set forth above shall not apply to any generating station which was the subject of a sales agreement entered into before January 1, 1997.

(Source: P.A. 90-561, eff. 12-16-97.)

Section 99. Effective date. This Act takes effect upon becoming law.".

Under the rules, the foregoing **Senate Bill No. 1653**, with House Amendment No. 1, was referred to the Secretary's Desk.

At the hour of 3:50 o'clock p.m., on motion of Senator Parker, the Senate stood adjourned until Saturday, April 15, 2000 at 9:00 o'clock a.m.

[Apr. 14, 2000]